

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii

February 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

09OD-110

Oahu

Acquisition of Private Lands and Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife, for inclusion into the Honouliuli Forest Reserve, at Honouliuli, Ewa, Oahu, Tax Map Key No. (1) 9-2-005:025.

APPLICANT AGENCY:

Department of Land and Natural Resources, Division of Forestry and Wildlife ("DOFAW")

PRIVATE LANDOWNER:

The Trust for Public Land ("TPL"), a California nonprofit public benefit corporation as Fee Owner whose address is The Trust for Public Land National Office, 116 New Montgomery Street, 4th Floor, San Francisco, California, 94105.

LEGAL REFERENCE:

Sections 107-10, 171-11, 171-30 and 173A-4.5(a)(1) Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned lands are situated at Honouliuli, Ewa, Oahu, and identified by Tax Map Key: (1) 9-2-005:025, as shown on the attached tax map and land court map as Exhibit A.

AREA:

3592.783 acres more or less.

ZONING:

State Land Use Classification: Conservation (mauka ridge tops in Protective subzone, remainder in Resource subzone)

City and County of Honolulu Land Use Ordinance: P-1, Restricted Preservation

Central Oahu Sustainable Communities Development Plan (February 2002): Preservation (Open Space)

CURRENT USE:

The property is currently being managed under a lease to The Nature Conservancy ("TNC"). The property is vacant and unimproved with the exception of cleared trails, triangulation stations, and various gates and outplanting enclosures maintained by The Nature Conservancy and the U.S. Army Garrison Hawaii, Army Environmental Command.

CONSIDERATION:

The State's total consideration for this transaction is \$1,610,765.50, \$982,956.50 of which is comprised of state funds, which is less than the \$4.3 million fair market value of the property's unencumbered fee simple interest. The balance will be from federal funds.

PROPOSED USE:

To be designated as public within the Honouliuli Forest Reserve.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before BLNR requires use of federal and State funds to acquire property that is to be set aside to the State Division of Forestry and Wildlife ("DOFAW") for control and management as a forest reserve. Therefore, pursuant to Item 16, Exemption Class 1 of the Exemption List for the State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife, as reviewed and concurred upon by the Environmental Council on June 12, 2008, which reads, "*The acquisition of land or interests in land for the purposes of conservation, provided that the acquisition does not cause any material change of use of land or resources beyond that previously existing,*" this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact assessments and statements.

APPLICANT REQUIREMENTS:

Applicant and/or TPL shall be required to:

- 1) Pay for the appraisal cost to determine the value of the properties to be acquired;
- 2) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 3) Obtain title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;
- 4) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards

required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

BACKGROUND: The Property, known as the Honouliuli Preserve, is located between the 1,200 and 3,100 foot elevation on the eastern slope of the Wai'anae Mountain range on the island of Oahu, and extends from Mauna Kapu in the south to Pu'u Hapapa in the north. The Property, originally owned by the James Campbell Company, LLC, contains the highest level of biodiversity on Oahu. Over ninety (90) rare and endangered plant and animal species reside with the Property, including thirty-three (33) threatened and endangered plant species, one (1) endangered bird, three (3) endangered Pomace flies and two (2) endangered tree snails.

Since 1990, TNC has managed the Property under lease from Campbell. TNC also was enrolled in the State Forest Stewardship Program from 2002 until 2008. However, TNC made a strategic decision to prioritize its forest management resources on the neighbor islands. TNC therefore terminated its Forest Stewardship contract with the State on May 9, 2008 and has fully complied with all applicable contract termination payback procedures. In addition, TNC, which continues to hold its lease on the Property, is committed to supporting the establishment of a long-term funding source for future conservation management and maintenance needs by contributing any funds realized from the termination of its lease.

The U.S. Army Environmental Command is required under the Oahu and Makua Implementation Plans promulgated under the federal Endangered Species Act to manage 16 endangered and threatened species on the Property. Training activities at Schofield Barracks Military Reservation and other areas have resulted in adverse impacts that are mitigated by the Army's activities on the Property. To continue training on O'ahu, the Army must continue its management activities on the Property, which include outplanting of native plants, fencing, weed control, feral pig control, and rodent control. The Army currently invests approximately \$500,000 per year in management activities in the Property.

In 2006, Campbell began to market the Property along with other adjacent conservation and agricultural properties for sale. As a condition of sale, Campbell included the Property as part of a larger package consisting of adjacent agricultural and conservation lands that also included Palehua lands, Kahe lands (including Camp Timberline), and other conservation lands.

Currently, and for several years previously, DOFAW, TPL, TNC, and the U.S. Army Garrison Hawai'i have been working together to assure that the Property would remain in conservation, and where compatible and appropriate, available to the public for hiking, cultural access, and other public uses such as watershed

protection (the Property is located over the Pearl Harbor Aquifer, the major source of drinking water for Oahu), natural resources research, as well as serve as a buffer to training activities at Schofield, which is located on the Property's North border.

With news of the pending Campbell sale, TPL began investigating an acquisition strategy whereby TPL would first obtain title to the land, then facilitate a transfer of title to the State. With assistance from Palehua Ranch, LLC, TPL successfully subdivided and acquired title to the Property. The Property was originally owned by the James Campbell Company, LLC ("Campbell") and was part of a larger 4,460.442 acre parcel identified as Tax Map Key No. (1) 9-2-005:021. The property was subdivided in order to exclude areas of the larger parcel from the purchase. These excluded areas were too expensive for the parties pursuing a conservation acquisition to consider at the present time. The excluded area was purchased by the Gill-Olson Trust and is situated directly south of the Property.

FUNDING SOURCES: The total funding amount for this acquisition is \$4.3 million. With assistance from TPL, DOFAW has secured \$627,809.00 from the U.S. Fish & Wildlife Recovery Land Acquisition (RLA) program, as well as a State Legacy Land Conservation Program grant for \$982,956.50, which was approved by the Board at its meeting on February 13, 2009, under Agenda Item C-2, attached as Exhibit B. TPL has secured from the U.S. Army Garrison Hawai'i an Army Compatible Use Buffer-Zone (ACUB) program grant in the amount of \$2,597,191.00. TPL, working with DOFAW, has also secured \$92,043.50 from the City and County of Honolulu's Clean Water and Natural Lands Fund. The Clean Water and Natural Lands Commission has ranked this project first for funding among a total of six projects.

Funding source summary:

Army ACUB program	\$2,597,191.00 (secured via TPL)
USFWS RLA program	\$627,809.00 (secured via State)
State Legacy Lands	\$982,956.50 (secured via State)
County	\$92,043.50 (secured via TPL)
TOTAL	\$4,300,000.00

GRANT REQUIREMENTS: Under the requirements of the RLA grant, the Property will be protected in perpetuity, allowing for continued restoration, management and preservation activities. These activities will be focused on the protection of endangered species habitat. The Property shall be managed consistently with the purposes for which it was awarded a Legacy Land Conservation Program grant and Chapter 173A, Hawaii Revised Statutes. Under the ACUB grant, uses incompatible to the Army's training mission will be prohibited, namely, residential and commercial development. Under the Clean Water and Natural Lands grant from the City and County of Honolulu, the County will also require that the property be used for the resource conservation purposes outlined in the grant application submitted by TPL and DOFAW.

TPL has also identified tentative non-binding donations of \$350,000 for a management fund to be established for the Property, to be administered by an appropriate non-profit. TNC intends to contribute the proceeds of the anticipated termination of its lease, currently estimated at \$300,000, upon the State's acquisition of the Property. An additional \$50,000 is to be donated by Palehua Ranch, LLC and the Gill Family Trusts with whom TPL has been negotiating. These funds would prospectively be available to assist DOFAW with the management and maintenance of the Property.

APPLICANT REQUIREMENTS: An appraisal has been completed by John Child & Co. that sets the fair market value of unencumbered fee simple interest of the 3,592.783 acre Property at \$4.3 million. The fair market value of the leased fee interest, which considers the encumbrance of the TNC lease on the Property, is \$4 million. As this acquisition is being partially funded by a Legacy Land Conservation Program grant, pursuant to Hawaii Revised Statutes Section 173A-4.5(a)(1), the Department has reviewed and accepted an appraisal prepared on behalf of the non-profit organization TPL. As required by HRS Section 173A-4.5, the appraisal has been submitted to the Department of the Attorney General for their review and approval as well. The appraisal has also been reviewed and approved by the United States Department of the Interior Appraisal Services Directorate. The appraisal was dated August 15, 2008 and updated on August 28, 2009 in order to comply with the requirements of HRS Section 173A-4.5. The purchase price will be \$4.3 million, as TNC shall terminate their lease prior to closing so the State will acquire the full, unencumbered fee interest in the Property.

TPL has provided a Title Report and Phase I environmental site assessment. The Phase I was performed by Tetra Tech EM, Inc. and was dated March 4, 2009. The assessment was performed in accordance with ASTM Practice E 1527-05 and resulted in no recognized environmental conditions being identified. However, since the closing of this transaction will occur past the 180 day viability period of the assessment, TPL shall be required to provide a current assessment which meets the all appropriate inquiry standard. The title report is currently under review by the Department and the Attorney General, and acceptance of which will be required prior to the closing of the transaction. A survey description will be prepared by DAGS Survey Division.

DEED LANGUAGE: The proposed warranty deed submitted by TPL includes deed restrictions required and approved by the U.S. Army as a condition of the ACUB grant. Also included is a perpetual right-of-entry granted to the Army for the purposes of conducting management activities on the Property. The deed will also be amended to include restrictions required by RLA, Legacy Land and Clean Water and Natural Lands grants whose funds were utilized in this acquisition.

In addition, the deed amends provisions in the State's standard warranty deed forms which deal with hazardous materials testing

and indemnification. The proposed warranty deed adds language to clarify that TPL's liability is limited to the period of time that TPL held title to the Property unless a release is intentionally caused by TPL or its agents. Also, the deed completely deletes the hazardous materials testing provision that reads as follows:

AND, the Grantor warrants that if any lender or governmental agency shall ever require testing to ascertain whether there has been any release of hazardous materials by Grantor on or adjacent to the Property, as determined by Grantee in its sole discretion, then the Grantor shall be responsible for the reasonable costs thereof. In addition, Grantor shall execute affidavits, representations and the like from time to time at Grantee's request concerning Grantor's best knowledge and belief regarding the presence of hazardous materials on the Property placed or released by Grantor.

In past acquisitions where TPL has served as the Grantor, the State has accepted these amendments on a case by case basis, so there is precedent for this practice. In addition, the final warranty deed terms shall be subject to review and approval by the Department and the Attorney General.

AGENCY COMMENTS: Comments were solicited from the Office of Hawaiian Affairs ("OHA") for this acquisition. OHA provided comments in support of this acquisition for the preservation and protection of the Property's natural resource values. OHA also notes that the forest conservation area should also be managed for indigenous plant species used in cultural practices and requests assurances that access to the forest conservation area for constitutionally protected Native Hawaiian traditional and cultural gathering purposes will be ensured.


Staff notes that due to a practice of the Territorial Government in the early 20th century, both public and private lands were sometimes included within proclaimed forest reserve boundaries. As a result, the lands that now comprise TMK (1) 9-2-005:025 were included in the February 2, 1925 Governor's Proclamation that established the boundaries of Honouliuli Forest Reserve as private lands. Parcel 025 is an example of this practice, and while its status may have changed to State ownership, it technically still lies within the boundary of Honouliuli Forest Reserve.

Contingent upon the State successfully securing title to the property, staff seeks Board approval in principle for a transfer of TMK (1) 9-2-005:025 comprising approximately 3592.783 acres at Honouliuli, Ewa, Oahu, to Honouliuli Forest Reserve with the intent that to place the watershed area and native ecosystems of these lands under the protection of forest reserve statutes and rules. This process would be accomplished by recommending that the Governor issue an Executive Order to amend Governor's Proclamation dated February 2, 1925 to indicate that the lands comprising TMK (1) 9-2-005:025 are no longer privately owned but part of the public lands of Honouliuli Forest Reserve.

RECOMMENDATION: That the Board:

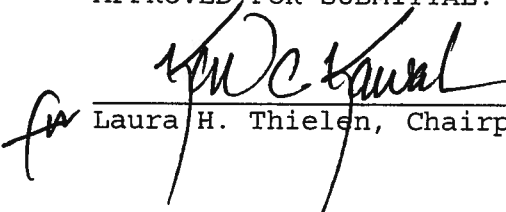
1. Authorize the acquisition of the subject private lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current form deed document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a management right-of-entry permit to DOFAW covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Contingent upon the State successfully acquiring title to the Property:
 - A. Approve in principle a transfer of the subject lands within the Honouliuli Forest Reserve from private to public status, under the management jurisdiction of the Division of Forestry and Wildlife.
 - B. Authorize the Division of Forestry and Wildlife to conduct a public hearing to transfer the subject lands to the public portion of the Honouliuli Forest Reserve, under provisions of Section 183-11, Hawaii Revised Statutes, as amended, if necessary.
 - C. Authorize the Chair to set a time, date and location for a public hearing and appoint a hearing master, if necessary.

Respectfully submitted,



Ian C. Hirokawa
Project Development Specialist

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson


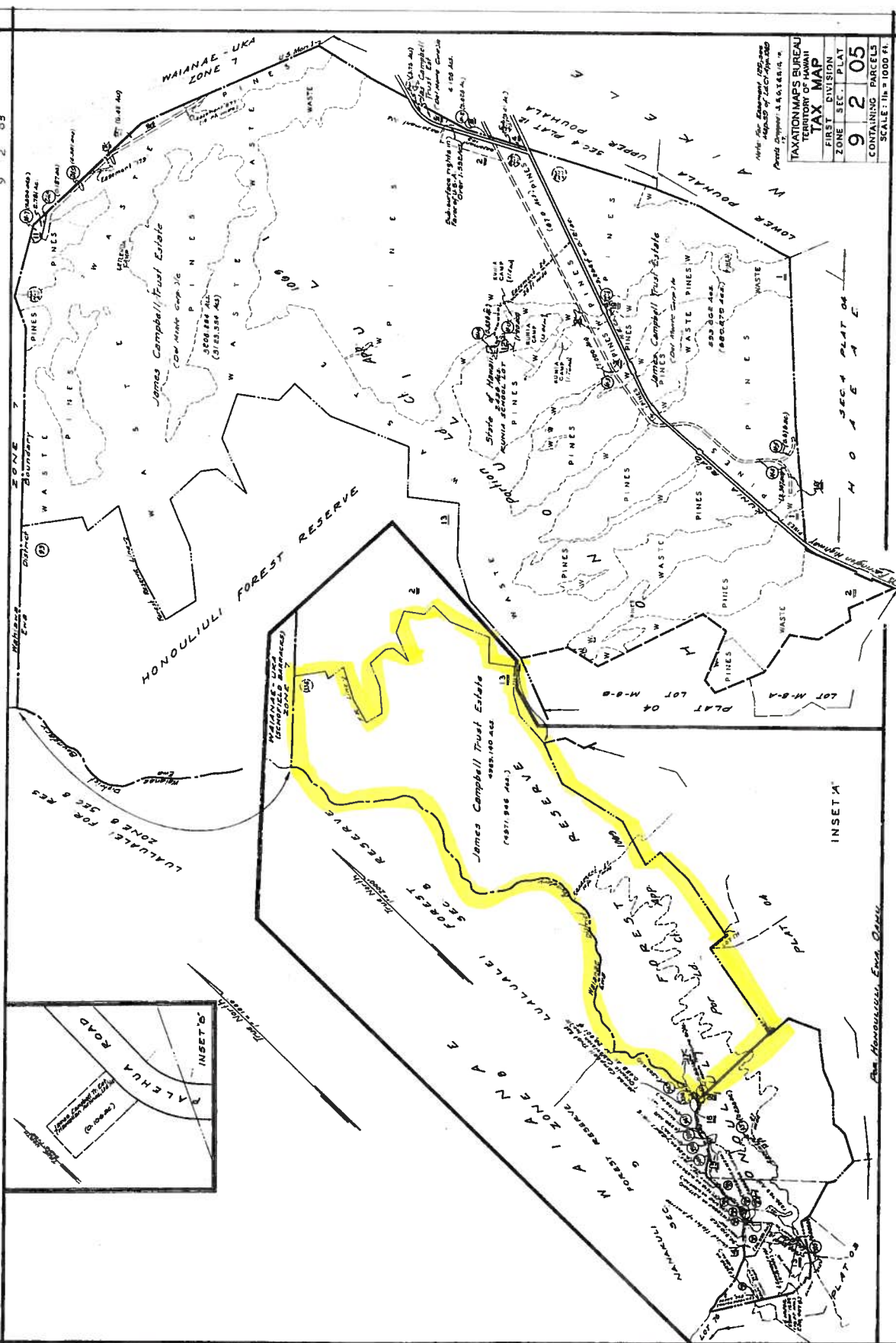


EXHIBIT "A"

OWG No. 2814
Source: Ld. Ct. App. 1868 & T.M.D.
By: D. C. & H. N. Jan 15, 1941



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LAND COURT
STATE OF HAWAII
LAND COURT APPLICATION 1089

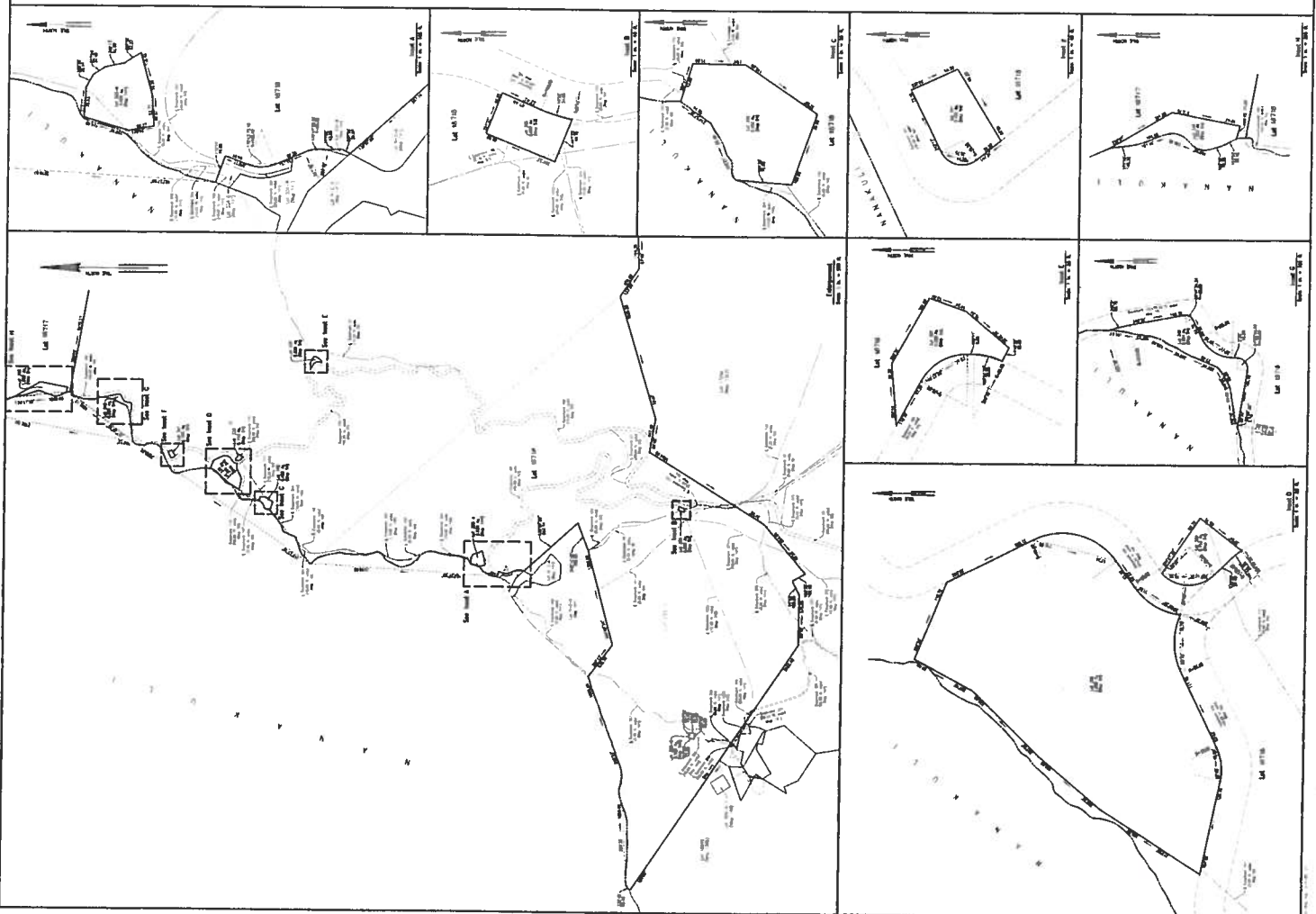
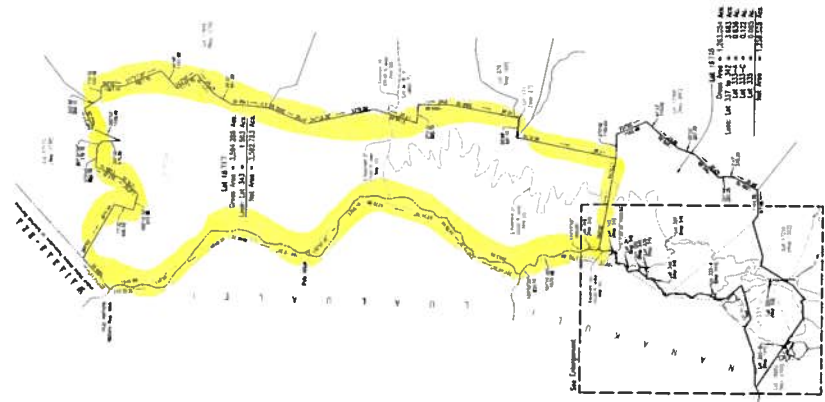
CONSOLIDATION OF LOT 17534
AS SHOWN ON MAP 1338
AND LOT 333-D AS SHOWN ON MAP 141
AND RESUBDIVISION OF SAID CONSOLIDATION
INTO LOTS 18717 AND 18718
AT HONOLULU, EWA, OAHU, HAWAII



RECORD - Survey Corporation
1000 Kalia Road, Suite 100
Honolulu, Hawaii 96813
Phone: (808) 943-1100
Fax: (808) 943-1101

RECORDED AND INDEXED IN BOOK 10 OF 2009
OF THE LAND COURT RECORDS, OFFICE OF THE CLERK
ON APRIL 14, 2009.
Karen K. Kawanishi
Clerk of the Land Court

*Filed Herein 31 2009 by
Shirley Ann*



State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

February 13, 2009

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawai'i

Board Members:

SUBJECT: REVIEW AND APPROVAL OF PROJECT RECOMMENDATIONS
FOR FUNDING FROM THE FISCAL YEAR 2009 LEGACY LAND
CONSERVATION PROGRAM (LAND CONSERVATION FUND)

SUMMARY:

Pursuant to H.R.S., §173A-2.5, the Legacy Land Conservation Commission (the Commission) has produced recommendations to the Board of Land and Natural Resources on project selection for Fiscal Year 2009 (FY09) funding from the Legacy Land Conservation Program (LLCP). Pursuant to H.R.S., §173A-5, the Department has sought and received the consultation of the Senate President and Speaker of the House of Representatives. This submittal summarizes the results of these processes for the Board's review and requests approval of the Board for projects to receive FY09 LLCP funding based on these results.

BACKGROUND:

Legacy Land Conservation Commission Recommendations:

For the Fiscal Year 2009 application cycle, the Legacy Land Conservation Program (LLCP) announced \$4.7 million available in project funding from the Land Conservation Fund (LCF) for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations, county agencies, and State agencies applied for funding for 10 separate resource land acquisition projects for the September 15, 2008, application deadline. The Legacy Land Conservation Commission made the following recommendations to the Board of Land and Natural Resources:

1. Providing funding the following eight project proposals (in order of priority):

ITEM C-2

EXHIBIT "B"

State of Hawai'i at \$537,500 for the acquisition of 3,582 acres in Honouliuli Preserve, Wai'anae Mountain Range, Island of O'ahu;

State of Hawai'i at \$450,000 for the acquisition of 65.56 acres in Hamakua, Kailua, Island of O'ahu;

State of Hawai'i at \$7,000 for the acquisition of 7 acres in North Kohala, Island of Hawai'i;

Kaua'i Public Land Trust at \$750,000 for the acquisition of 0.74 acres in the area of Black Pot Park, Hanalei, Island of Kaua'i, to be held by the County of Kaua'i;

Center for Non-Violent Education and Action (Malu Aina) at \$201,787.50 for the acquisition of 11.14 acres in Puna District, Island of Hawai'i;

State of Hawai'i at \$1,250,000 for the acquisition of 17.05 acres in Lapakahi, Kohala, Island of Hawai'i;

Kona Historical Society at \$448,831 for the acquisition of 2.11 acres in Kona Mauka, Island of Hawai'i; and,

Maui Coastal Land Trust at \$609,425 for the acquisition of an agricultural conservation easement over 27.44 acres, in Pupukea, North Shore, Island of O'ahu, to be held by the North Shore Community Land Trust.

2. To consider the Kauai Public Land Trust's project as amended at the December 18, 2008, Legacy Land Conservation Commission meeting. This amendment consisted removing two parcels (0.42 acre; "Sheehan parcels," tax map keys (4) 5-5-001:049 and (4) 5-5-001:050) and replacing them with a nearby parcel (0.74 acre; "Hodge parcel," tax map key (4) 5-5-001:011).
3. To provide any additional funds available under the \$4,700,000 amount to applicants in the order ranked, as limited by the matching funds requirement under Chapter 173A, H.R.S.

The ranking of projects is indicated by the Project Ranking Table (Attachment I). The result of the third recommendation would be an increased award to the State of Hawai'i for the acquisition of 3,582 acres in Honouliuli Preserve, Wai'anae Mountain Range, Island of O'ahu. The amount of this award would increase by an additional \$445,456.50, from \$537,500 to \$982,956.50.

Details on each project are included in the discussion below and in the Project Ranking Table (Attachment I).

Legislative Consultation

On December 23, 2008, Department staff and the Commission Chair met with Speaker of the House of Representatives Calvin Say and Senate Vice President Russell Kokubun to seek the consultation of these legislators regarding the Commission's recommendations, pursuant to H.R.S. Chapter 173A. The legislators agreed with the Commission's recommendations regarding the funding of the eight grants listed above. The Senate President and Speaker of the House of Representatives then confirmed support for these projects in a follow-up letter dated December 30, 2008 (Attachment III).

DISCUSSION:

The following discussion describes the details surrounding each of the Legacy Land Conservation Commission's recommended projects.

State of Hawai'i at \$537,500 for the acquisition of 3,582 acres in Honouliuli Preserve, Wai'anae Mountain Range, Island of O'ahu

The State of Hawaii, with the assistance of Trust for Public Land (TPL), requested funding for a parcel of land, a portion of tax map key (TMK) (1) 9-2-005:013, in Honouliuli, Oahu, for the protection of its natural, scenic, and watershed values. The parcel is being acquired from the James Campbell Company and TPL has secured over \$3 million in matching federal funds for this project. The State of Hawaii, DLNR, Division of Forestry and Wildlife will hold the property and will cooperate with the U.S. Army to continue the restoration, management, and preservation activities that are currently being performed by the U.S. Army and The Nature Conservancy.

State of Hawai'i at \$450,000 for the acquisition of 65.56 acres in Hamakua, Kailua, Island of O'ahu

The State of Hawai'i requested funding for a parcel of land, TMK (1) 4-2-003:017, on the Hamakua hillside, adjacent to Hamakua Marsh Wildlife Sanctuary, Kailua, Oahu, for the protection of its natural habitat, scenic, and watershed values. The parcel is being acquired from Kaneohe Ranch (Castle Family Limited Partners) and the State has secured approximately \$755,000 in matching federal and private funds for the acquisition. The State of Hawaii, DLNR, Division of Forestry and Wildlife will hold the property and manage it for the protection of its watershed and habitat values as part of a 10-year Hamakua Marsh Watershed restoration and education project. Management and operations will also be in accordance with U.S. Natural Resources Conservation Service Cooperative Agreement and Conservation Plan covering the area.

State of Hawai'i at \$7,000 for the acquisition of 7 acres in North Kohala, Island of Hawai'i

The State of Hawai'i requested funding for a parcel of land, TMK (3) 5-6-001:0051 and TMK (3) 5-6-001:0051, in Kukuipahu Ahupua'a, leeward North Kohala, Island of Hawai'i, for the protection of its scenic, cultural, and historic values. The parcel is being

acquired from Chalon International of Hawaii, Inc., by the State of Hawaii with the aid of a \$960,000 land value donation from the owner. The State of Hawaii, DLNR, Division of State Parks, will manage the land as a protective and scenic buffer for the neighboring Kukuipahu Heiau, as part of the North Kohala Historic Sites State Monument.

Kaua'i Public Land Trust at \$750,000 for the acquisition of 0.74 acre in the area of Black Pot Park, Hanalei, Island of Kaua'i, to be held by the County of Kaua'i

The Kaua'i Public Land Trust (KPLT) requested funding for a parcel of land, TMK (4) 5-5-001:011, in Hanalei, Kaua'i, for the protection of its recreational, open space, and natural values. The parcel is being acquired from a private owner by KPLT and KPLT plans to secure approximately \$2.7 million in land value donation and county funding for the acquisition. The County of Kauai will hold and manage the property for the protection of its habitat, coastal, and recreational values.

KPLT's mission is working with others to use land conservation tools to preserve Kaua'i's places of the heart. KPLT is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

Center for Non-Violent Education and Action (Malu 'Aina) at \$201,787.50 for the acquisition of 11.14 acres in Puna District, Island of Hawai'i

The Center for Non-Violent Education and Action (Malu 'Aina) requested funding for a parcel of land, TMK (3) 1-7-002:016, south of Hilo in the Puna District, Island of Hawai'i, for the protection of its agricultural, natural habitat, and open space values. The parcel is being acquired from a private owner by Malu 'Aina and Malu 'Aina has secured approximately \$67,000 in matching private funds and land value donation for the acquisition. Malu 'Aina plans to manage the land for the preservation of its agricultural values and the expansion of its community-supported organic farming operations.

Malu 'Aina is an all-volunteer nonprofit organization that grows food to share with people in need and works for justice, peace and preserving the environment. Malu 'Aina is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

State of Hawai'i at \$1,250,000 for the acquisition of 17.05 acres in Lapakahi, Kohala, Island of Hawai'i

The State of Hawai'i, with the assistance of TPL, requested funding for a parcel of land, TMK (3) 5-7-001:0011, in the ahupua'a of Kaipuha'a and Lamaloloa, southern end of Lapakahi State Historical Park, Island of Hawai'i, for the protection of its watershed, coastal, natural, cultural, and historical values. The parcel is being acquired from a private owner by the State of Hawai'i, and the TPL has secured approximately \$1.29 million in matching federal and private funds for the acquisition. The State of Hawaii, DLNR, Division of State Parks, will manage the land as part of Lapakahi State Historical Park, for the preservation of its cultural and historical resources.

Kona Historical Society at \$448,831 for the acquisition of 2.11 acres in Kona Mauka, Island of Hawai'i

The Kona Historical Society (KHS) requested funding for a parcel of land, TMK (3) 8-1-004:074, in Kona Mauka, Island of Hawai'i, for the protection of its historical, cultural, and recreational values. The parcel is being acquired from a private owner by KHS and KHS has secured approximately \$160,000 in matching private funds for the acquisition. KHS plans to use the property for the expansion of its living history operations.

KHS's mission is to collect and preserve information about the history of the Kona district. KHS is nonprofit corporation and is exempt from federal taxation under 501(c)(3) of the IRC.

Maui Coastal Land Trust at \$609,425 for the acquisition of an agricultural conservation easement over 27.44 acres, in Pupukea, North Shore, Island of O'ahu, to be held by the North Shore Community Land Trust

The Maui Coastal Land Trust (MCLT) requested funding for an agricultural conservation easement over a parcel of land, TMK (1) 5-9-005:067, for the protection of its agricultural, watershed, and open space values. MCLT is purchasing the easement from a private owner and has secured over \$1 million in federal funds for the acquisition. The North Shore Community Land Trust (NSCLT) will hold and monitor the conservation easement and work with the landowner in managing the land for its agricultural, recreational, and scenic resources.

MCLT's mission is to preserve and protect coastal lands in Maui Nui for the benefit of the natural environment and of current and future generations. MCLT is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

Department Recommendations

In its recommendations below, the Department concurs with the Legacy Land Conservation Commission's recommendations 1 and 2 to fund the eight projects detailed above, but does not recommend 3, to provide additional funding to the Honouliuli project. At this time, it is unclear if additional matching funds are needed. If other funds do not become available, the Department can come back to the Board for consideration of recommendation 3, to provide additional funding.

RECOMMENDATIONS:

That the Board:

1) Approve the acquisition of the following parcels and authorize the Chairperson to execute a letter of offer to the landowner and encumber funds, under the FY09 LLCP ceiling, from the LCF for the following State projects:

State of Hawai'i at \$537,500 for the acquisition of 3,582 acres in Honouliuli Preserve, Wai'anae Mountain Range, Island of O'ahu;

State of Hawai'i at \$450,000 for the acquisition of 65.56 acres in Hamakua, Kailua, Island of O'ahu;

State of Hawai'i at \$7,000 for the acquisition of 7 acres in North Kohala, Island of Hawai'i;

State of Hawai'i at \$1,250,000 for the acquisition of 17.05 acres in Lapakahi, Kohala, Island of Hawai'i;

Using a total of \$2,244,500 from the Hawai'i State Land Conservation Fund, subject to compliance with H.R.S., Chapter 173A, and the normal process and procedures for the acquisition of lands by the State.

2) Authorize the Chairperson to enter into agreements and encumber FY09 funds with the listed grant recipients for the following grants to nonprofit land conservation organizations and counties:

Kaua'i Public Land Trust at \$750,000 for the acquisition of 0.74 acres in the area of Black Pot Park, Hanalei, Island of Kaua'i, to be held by the County of Kaua'i;

Center for Non-Violent Education and Action (Malu Aina) at \$201,787.50 for the acquisition of 11.14 acres in Puna District, Island of Hawai'i;

Kona Historical Society at \$448,831 for the acquisition of 2.11 acres in Kona Mauka, Island of Hawai'i; and,

Maui Coastal Land Trust at \$609,425 for the acquisition of an agricultural conservation easement over 27.44 acres, in Pupukea, North Shore, Island of O'ahu, to be held by the North Shore Community Land Trust.

Using a total of \$2,010,043.50 from the Hawai'i State Land Conservation Fund, subject to:

- a. compliance with H.R.S., Chapter 173A;
- b. compliance with H.R.S., Chapter 343;
- c. execution of a Grant Agreement with the BLNR;
- d. certification of an appraisal for each project by the Department;
- e. insertion of Legacy Land Conservation Program restrictions into the deed as a condition of contractual agreements with the grant recipients;

- f. approval of the Grant Agreement and of the Deed by the Attorney General's office;
- g. the approval of the Governor.

3) Authorize the Department to obtain State-contracted appraisals as needed to determine fair market value of the fore stated interests in property.

4) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the grants and acquisitions mentioned above.

Respectfully submitted,



PAUL J. CONRY, Administrator
Division of Forestry and Wildlife

Attachments:

- Attachment I: Table: Fiscal Year 2009 Legacy Land Conservation Program Funding Requests & Recommended Grants
- Attachment II: Location & Parcel Maps
- Attachment III: December 30, 2008, letter from the Senate President and the Speaker of the House of Representatives

APPROVED FOR SUBMITTAL:

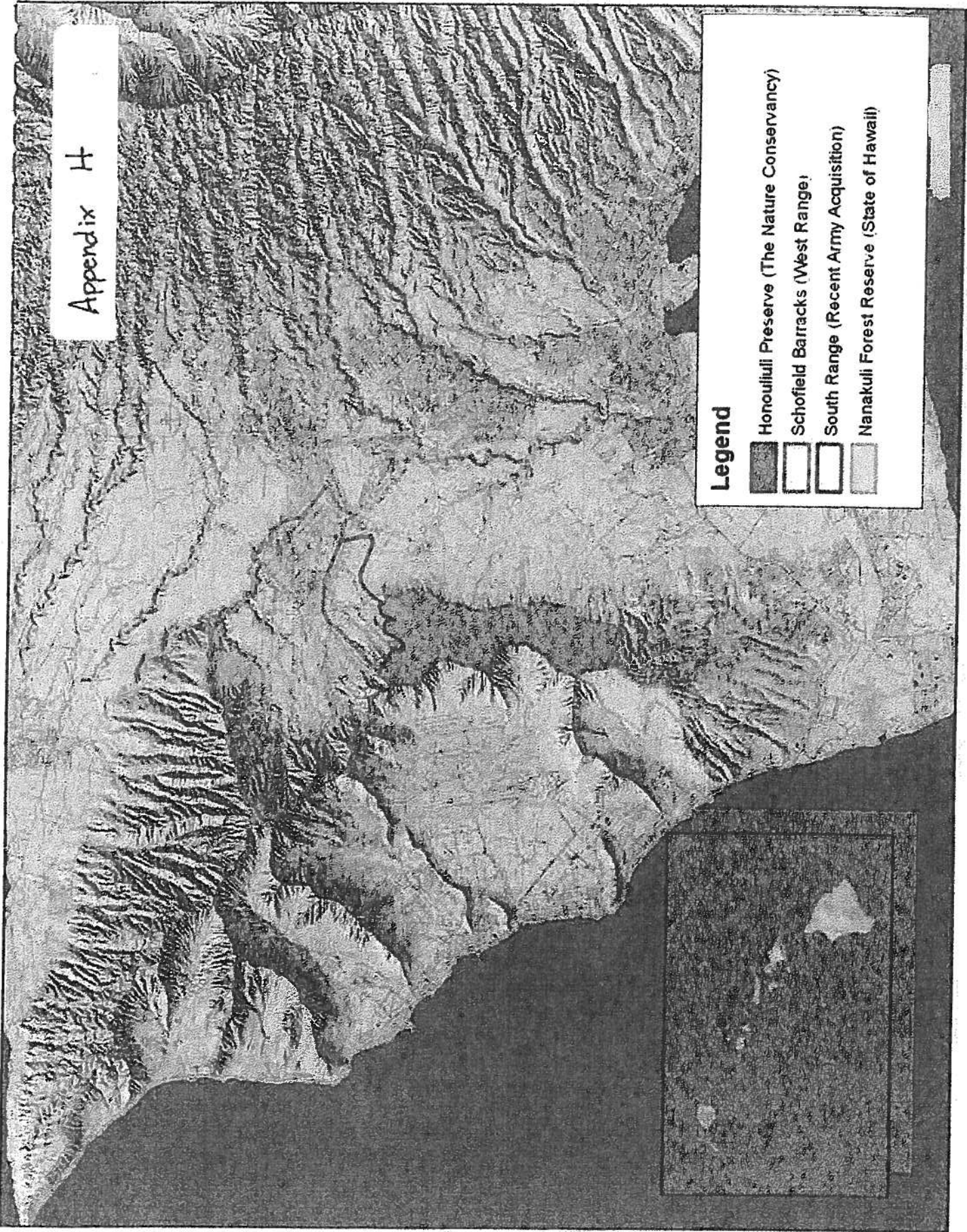


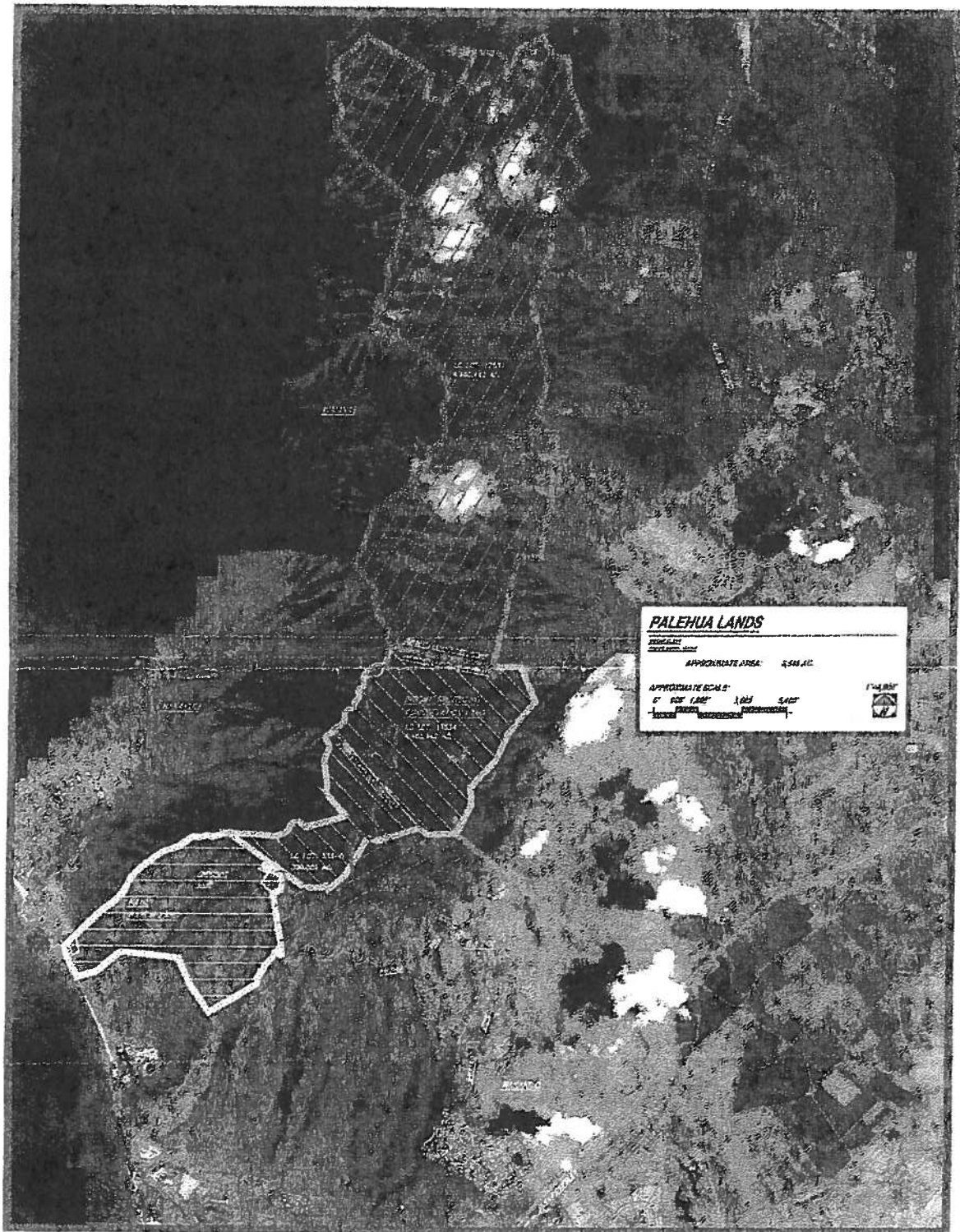
LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

Attachment I

Legacy Land Conservation Commission Project Rankings, Fiscal Year 2009

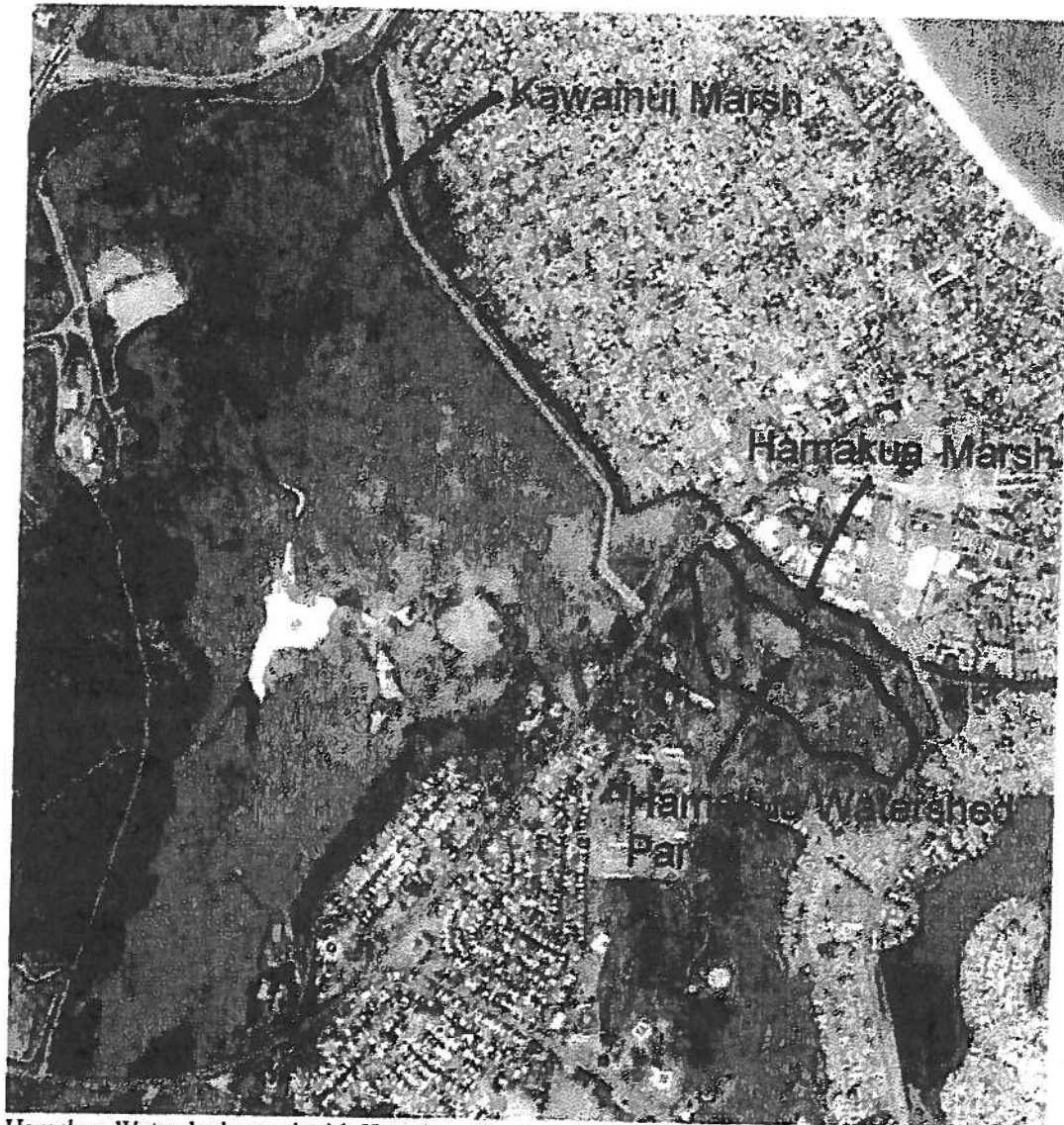
RANK	Agency/ NPO	Type of Interest	Interest held by	Location	TMK	Size (acres)	Public access	Legacy Land Request	Total Project Costs
1	DOFAW, DLNR (Trust for Public Land)	fee	State of Hawaii	Honouliuli Preserve, Waianae Mountain Range, Island of Oahu	(1) 9-2- 005:013 (portion)	3582.00	y	\$537,500	\$4,374,900
2	DOFAW, DLNR	fee	State of Hawaii	Hamakua hillside, Kailua, Island of Oahu	(1) 4-2- 003:017	65.56	y	\$450,000	\$1,205,000
3	State Parks, DLNR	fee	State of Hawaii	North Kohala, Island of Hawaii	(3) 5-6- 001:0051 and 0075	7.00	y	\$7,000	\$967,000
4	Kauai Public Land Trust	fee	County of Kauai	Black Pot Park area, Hanalei, Island of Kauai	(4) 5-5- 001:011	0.74	y	\$750,000	\$3,300,000
5 (tied)	Center for Non- Violent Education and Action / Malu Aina	fee	Center Non- Violent Ed. & Action	Puna District, Island of Hawaii	(3) 1-7-002- 016	11.14	n	\$201,787.50	\$269,050
5 (tied)	State Parks, DLNR (Trust for Public Land)	fee	State of Hawaii	Lapakahi, Kohala, Island of Hawaii	(3) 5-7- 001:0011	17.05	y	\$1,250,000	\$2,541,000
6	Kona Historical Society	fee	Kona Historic al Society	Kona Mauka, Island of Hawaii	(3) 8-1- 004:074 (portion) once subdivided, intend to purchase Lot 3	2.11	y	\$448,831	\$603,800
7	Maui Coastal Land Trust	Ag. CE	North Shore Comm. Land Trust	Mauka end of the ahupua'a of Pupukea, North Shore, Island of Oahu	(1) 5-9- 005:067	27.44	n	\$609,425	\$2,318,850



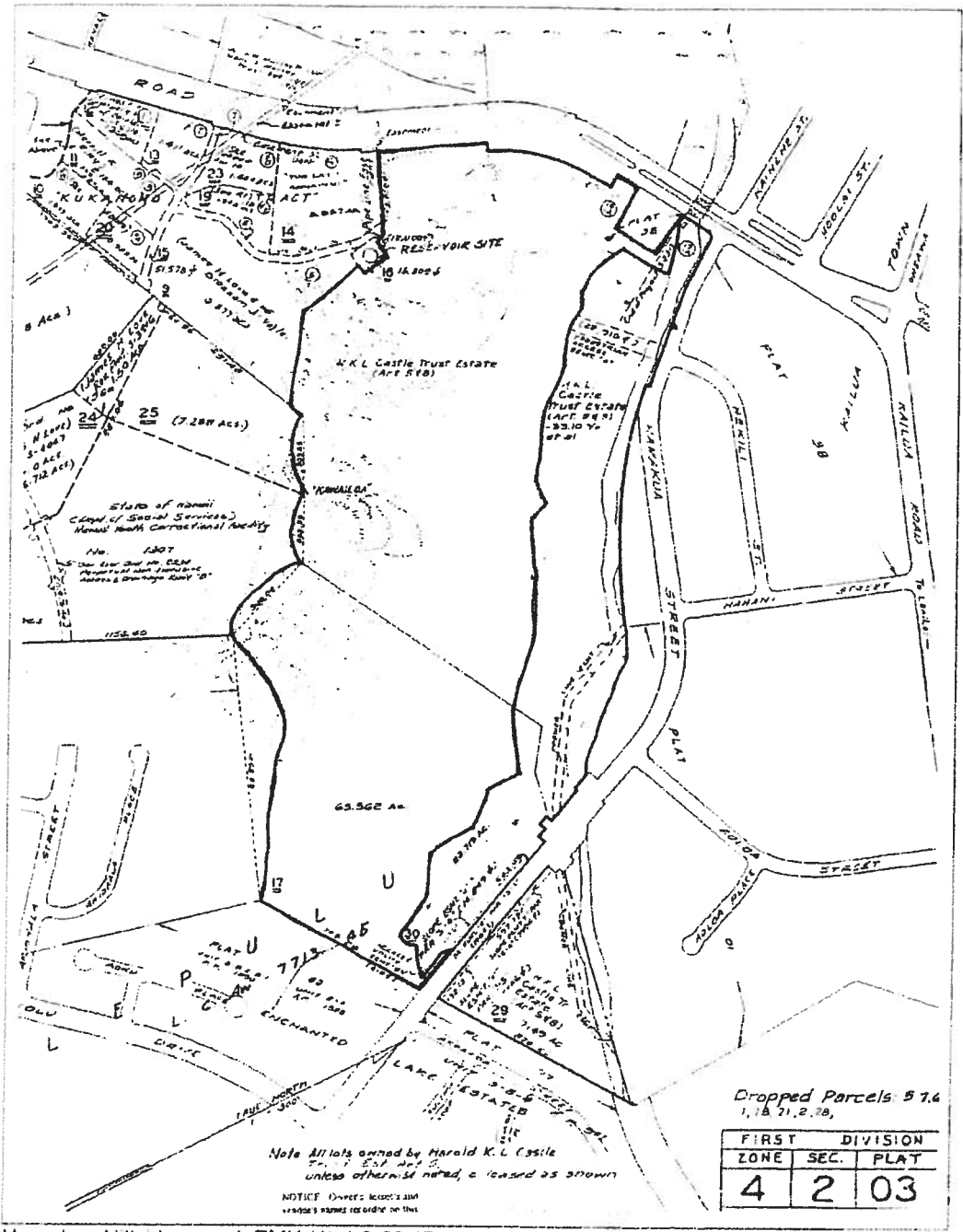


APPENDIX I: LAND FOR SALE BY JAMES CAMPBELL COMPANY LLC

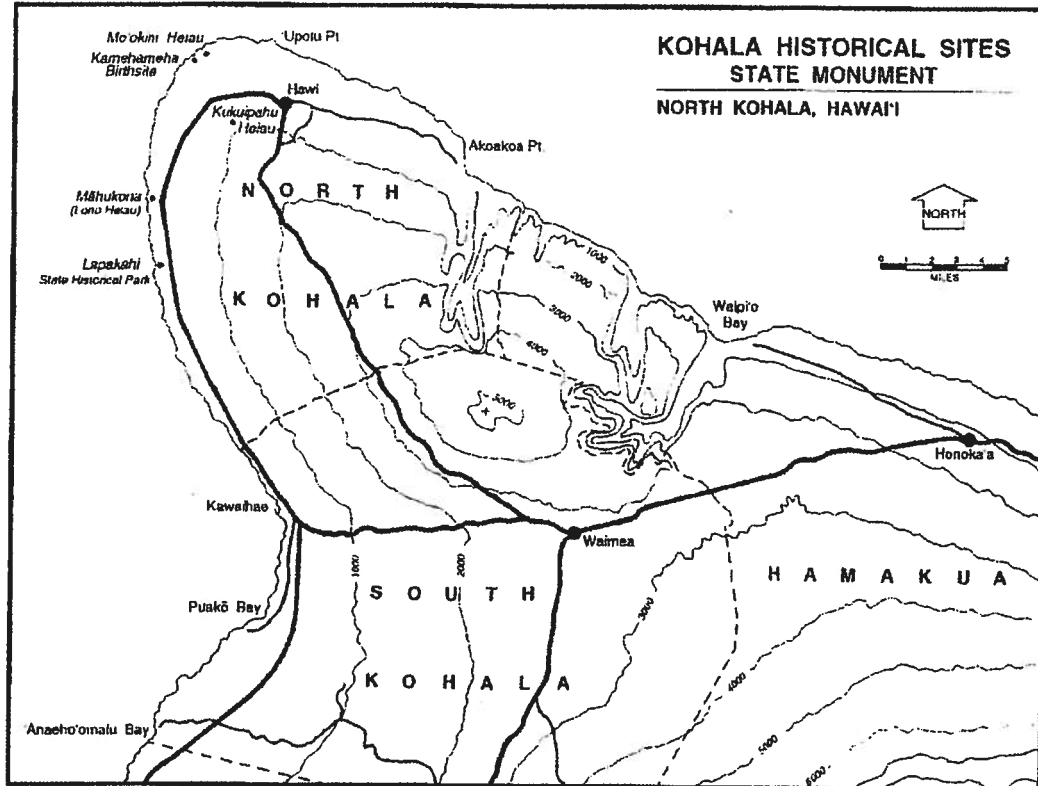
GENERAL LOCATION MAP



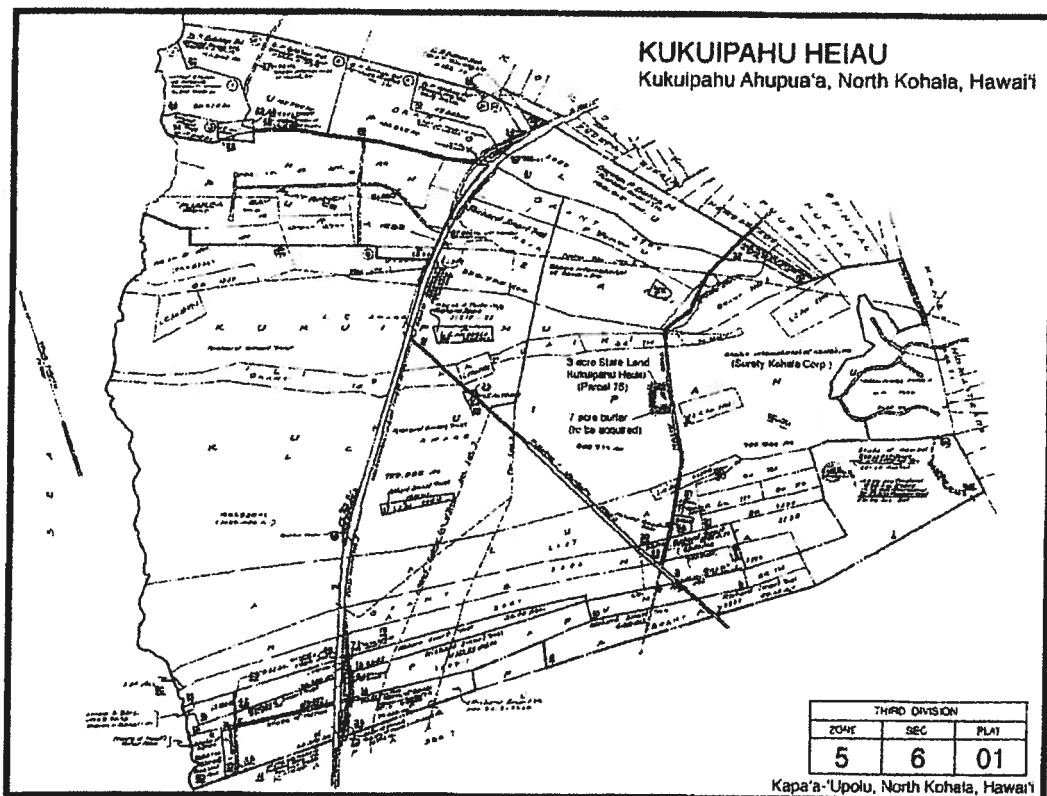
Hamakua Watershed parcel with Hamakua Marsh and Kawainui Marsh adjacent.



Hamakua Hillside parcel. TMK (1) 4-2-03.17.

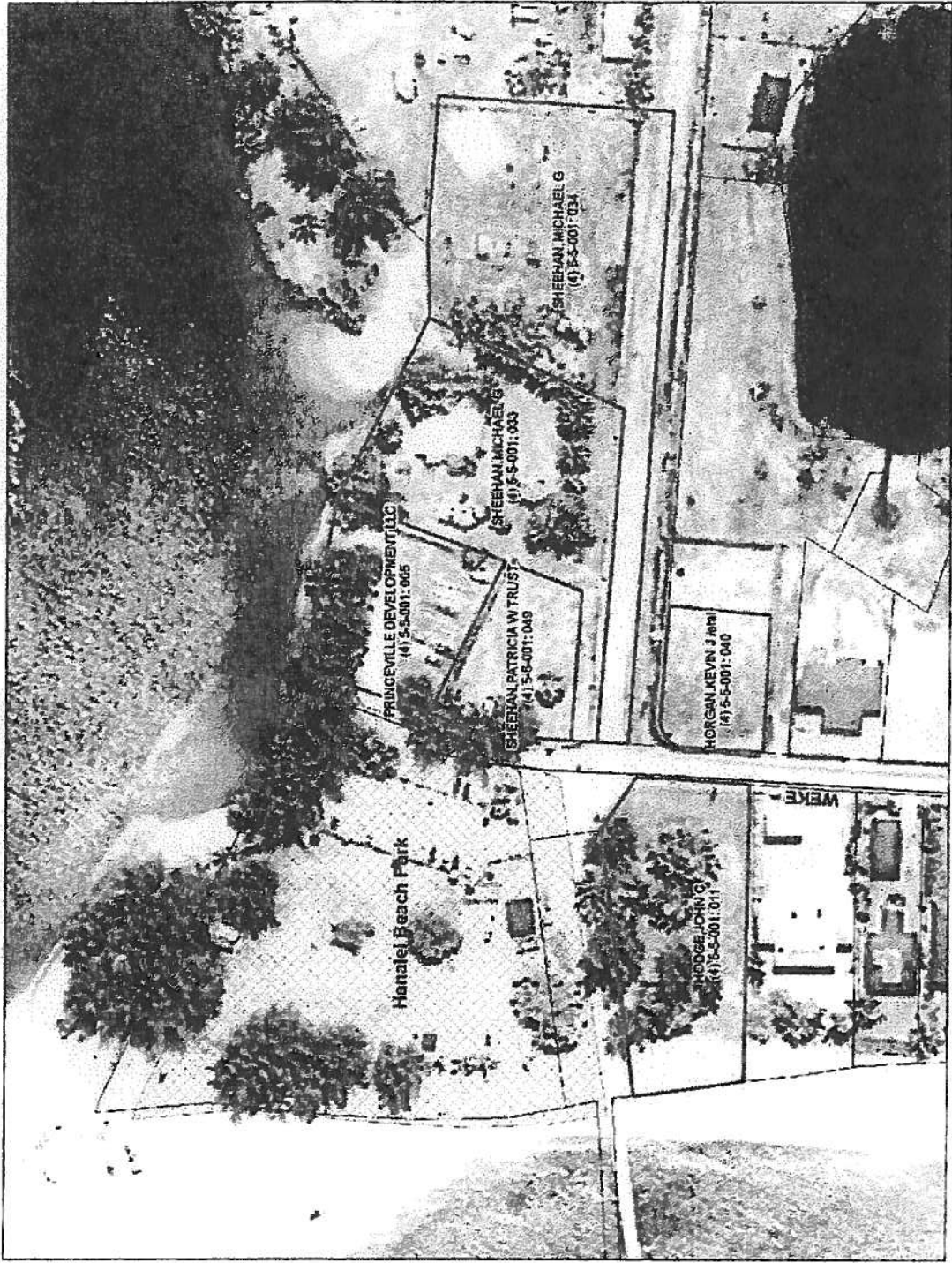


Location of Kukuipahu Heiau on the leeward slope of North Kohala.

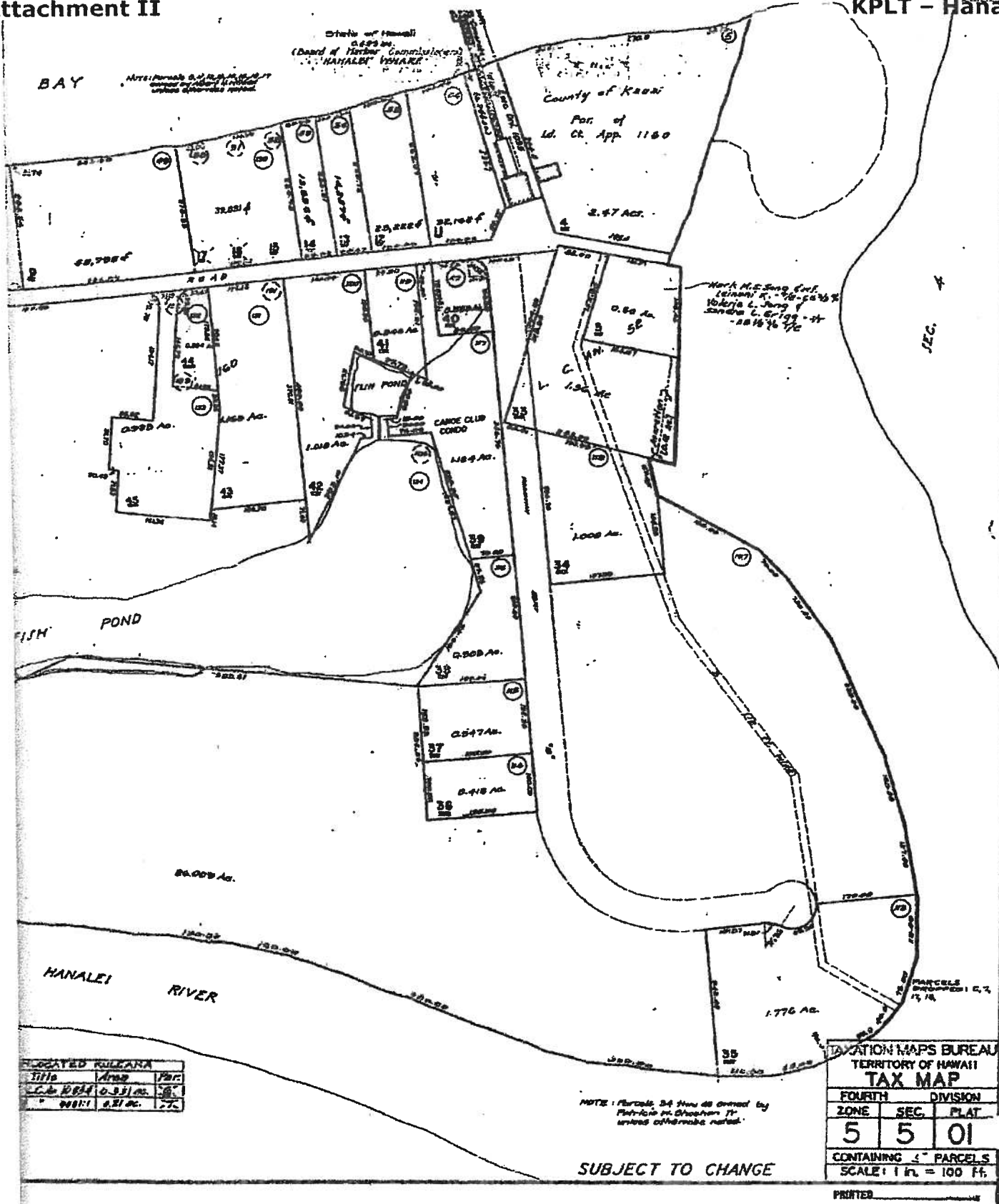


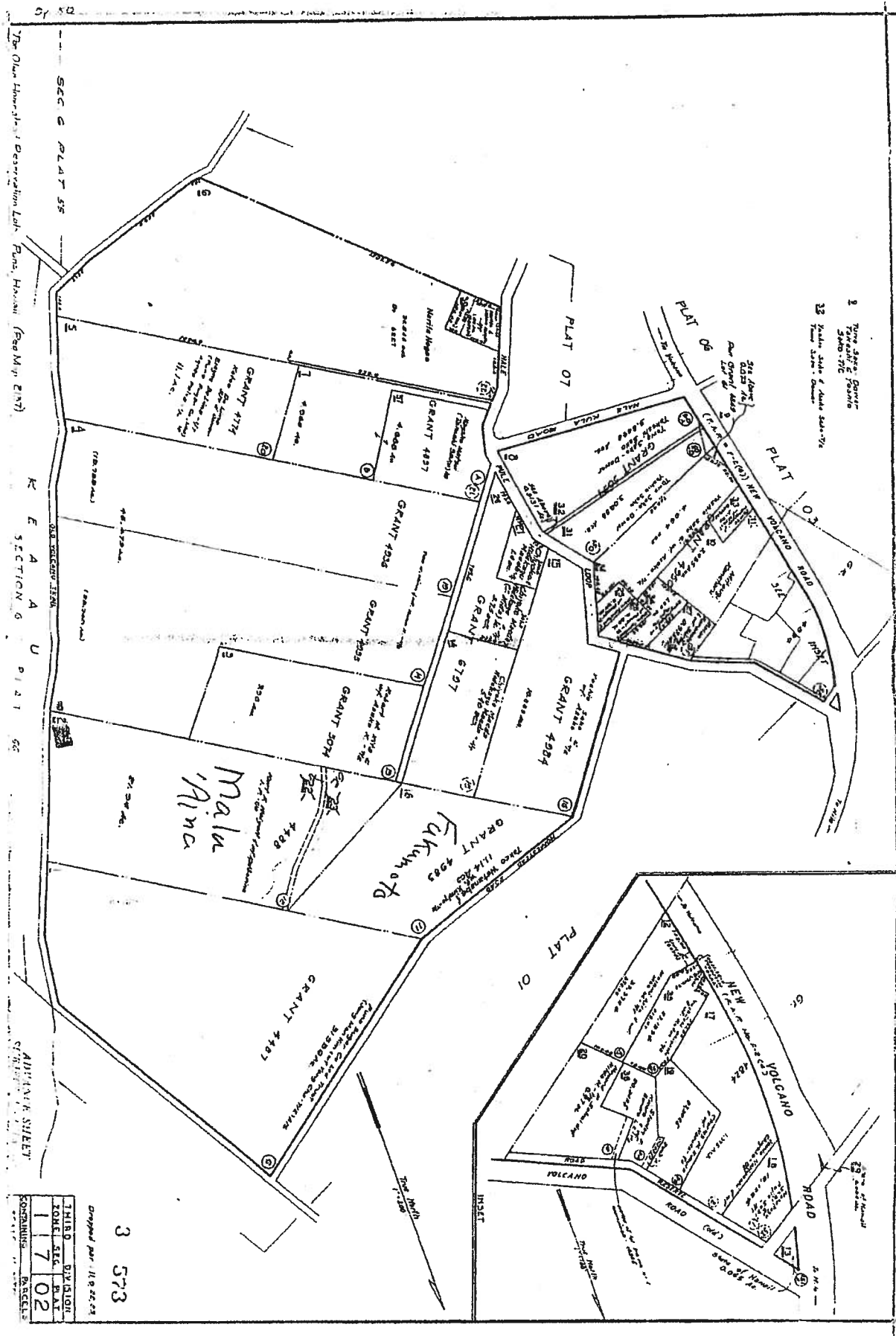
Kukuipahu Heiau parcel adjacent to Maliu Road in the uplands of the Kukuipahu ahupua'a.

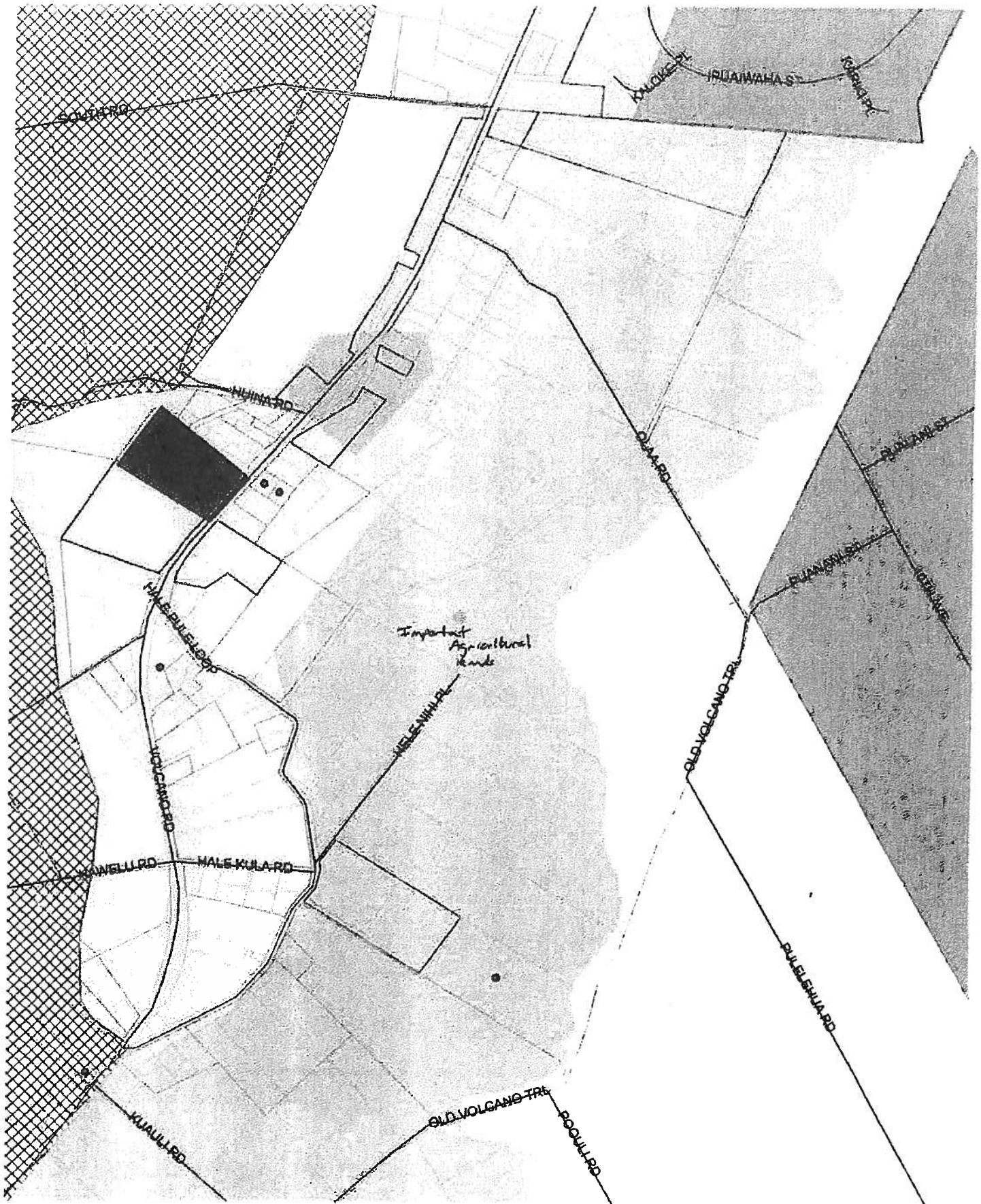
Black Pot Park Expansion
Current Priority: 2



KPLT – Hanafei







LVPAG (General Plan)

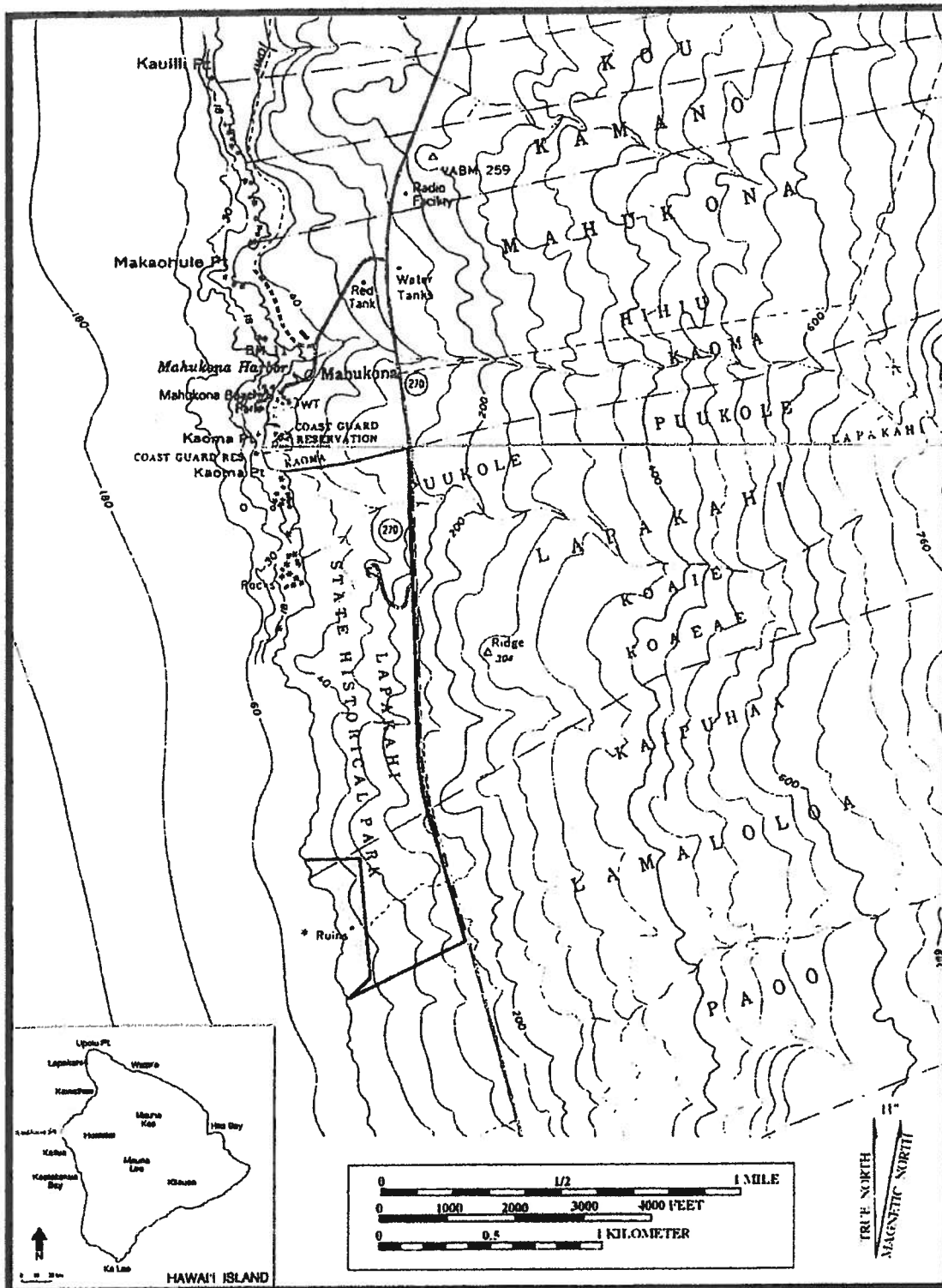
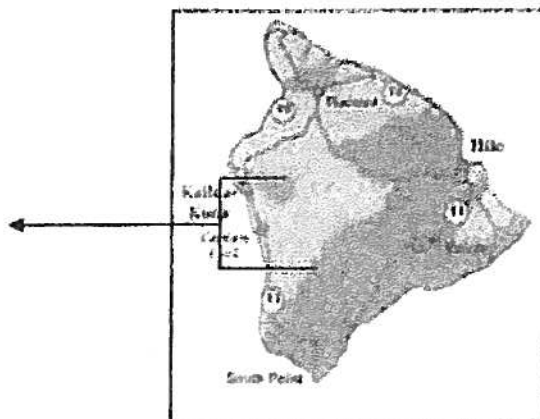
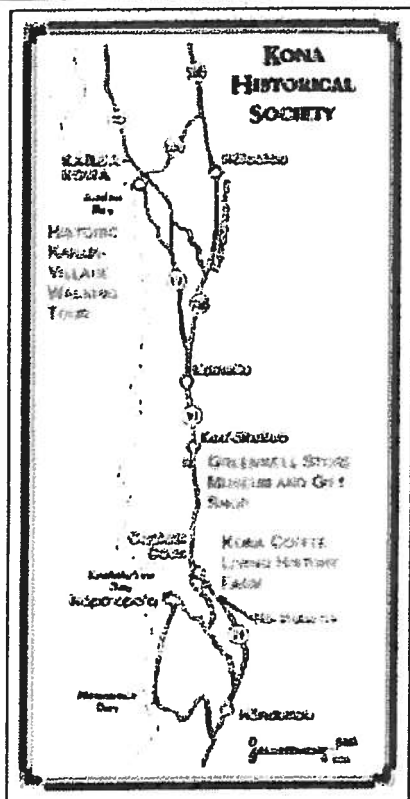
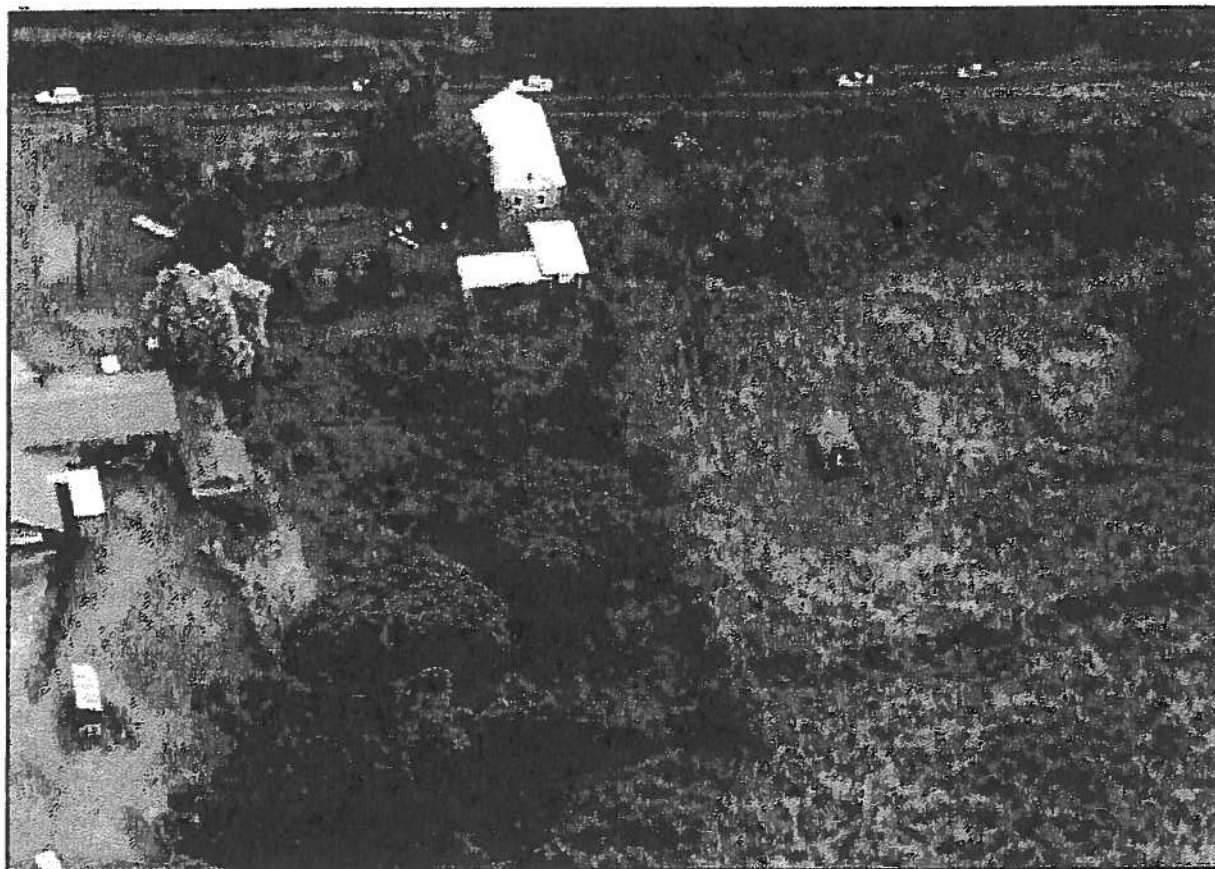
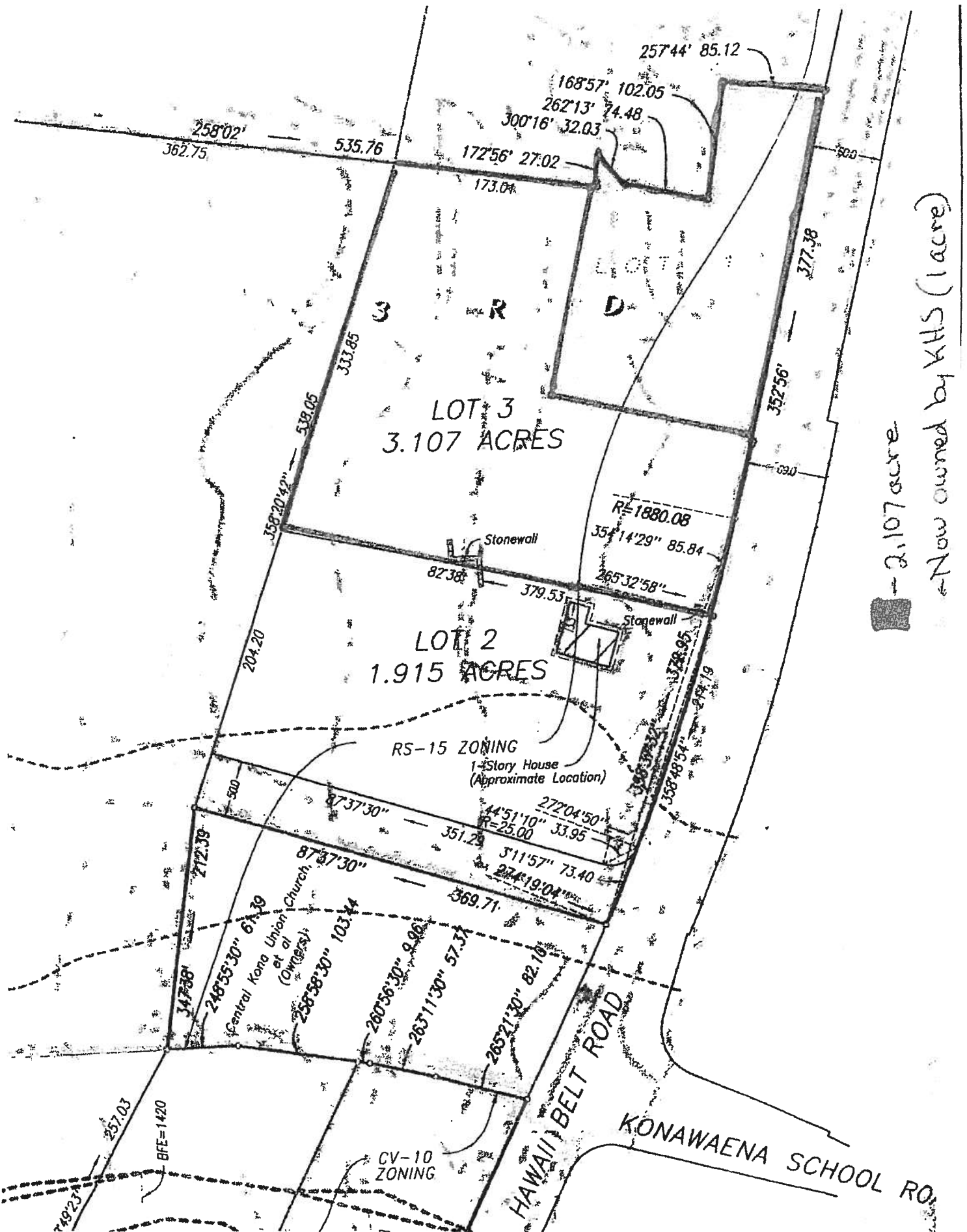


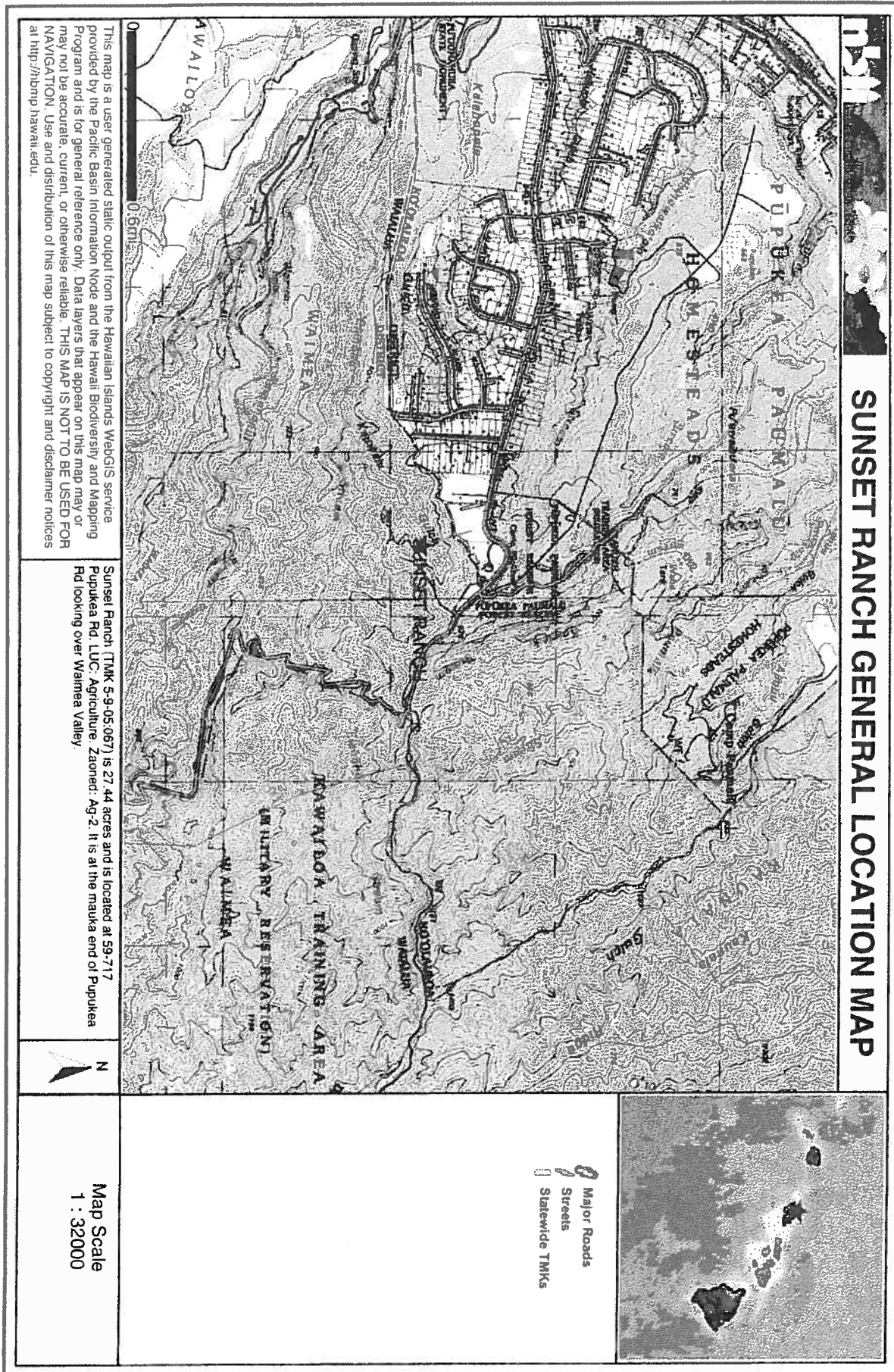
Fig. 1: Location of subject property at southern end of Lapakahi State Historical Park.

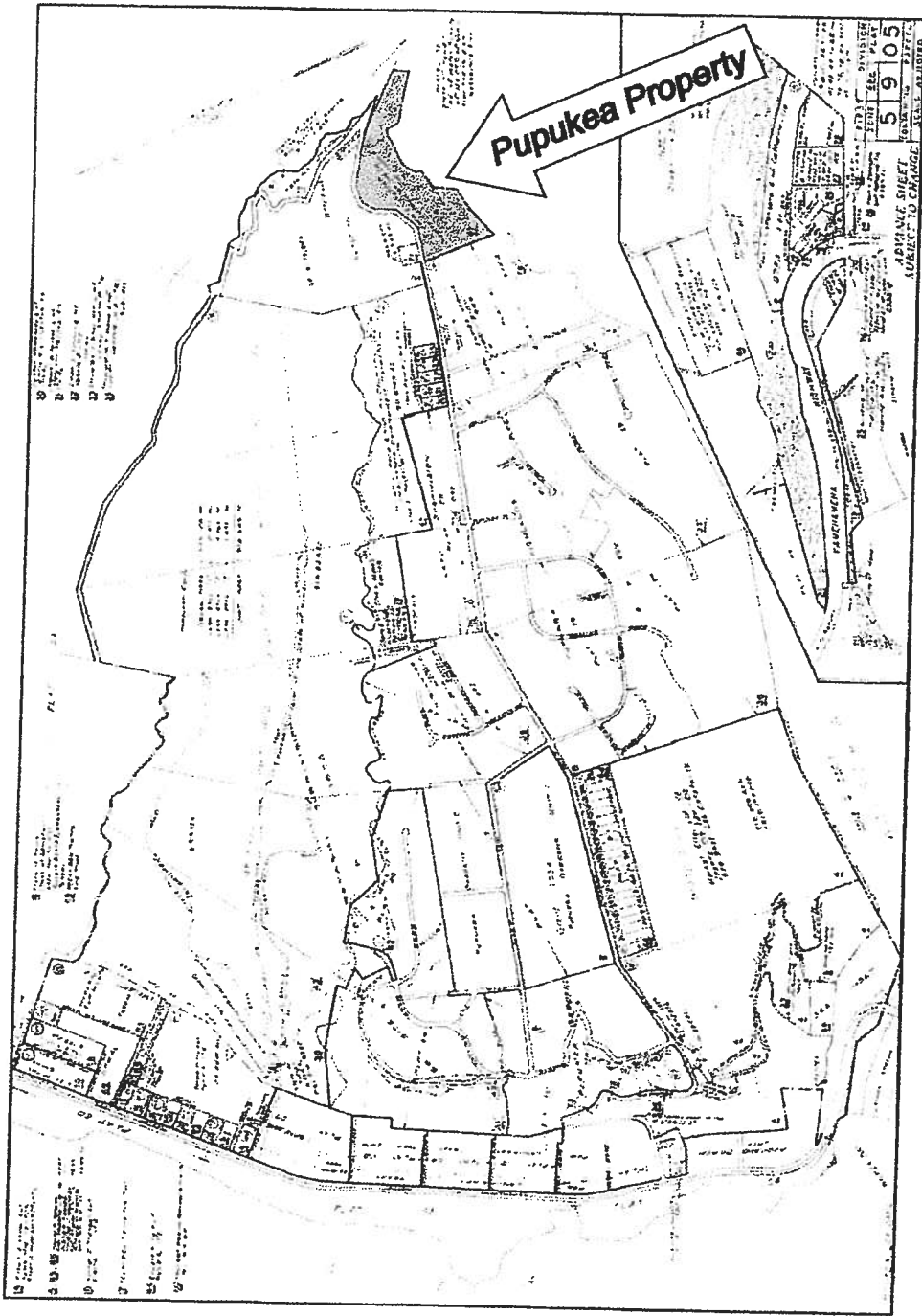


Kona Historical Society
Legacy Lands Proposal, 2008









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HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

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09 JAN -6 A8 06

December 30, 2008

DEPT OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Ms. Laura H. Thielen, Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

RECEIVED
LAND DIVISION
2009 JAN -9 A 10:19
DEPT OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Chairperson Thielen:

Chapter 173A, Hawaii Revised Statutes, imposes upon the Senate President and House Speaker the duty of providing advice to the Board of Land and Natural Resources before certain actions may be taken with respect to the acquisition of land having resource value to the State.

To fulfill this duty, we have reviewed the Legacy Land Commission's list of recommended grants from the land conservation fund in fiscal year 2008-09 for the acquisition of such lands. In addition, Senate Vice President Russell S. Kokubun and the Speaker have discussed the recommendations with a Commission member, staff, and yourself.

Based on the review, discussion, and Senate Vice-President's advice, we agree with the Commission that the following eight grants be funded:

- (1) Division of Forestry and Wildlife, Department of Land and Natural Resources (DLNR) -- \$450,000 for the acquisition of 65.56 acres near Hamakua Marsh, Kailua, Island of Oahu;
- (2) Kona Historical Society -- \$448,831 for the acquisition of 2.11 acres in Kona Mauka, Island of Hawaii;
- (3) Kauai Public Land Trust -- \$750,000 for the acquisition of 0.42 acres near Hanalei River, Hanalei, Island of Kauai, to be held by the County of Kauai;

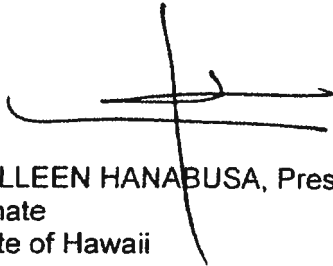
Attachment III

Laura Thielen
December 30, 2008
Page 2

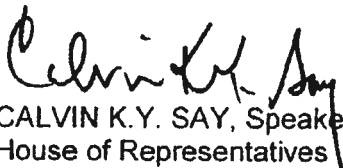
- (4) Center for Non-Violent Education and Action/Malu Aina -- \$201,788 for the acquisition of 11.14 acres in Puna, Island of Hawaii;
- (5) Maui Coastal Land Trust -- \$609,425 for the acquisition of a conservation easement over 27.44 acres in Pupukea, Island of Oahu, to be held by the North Shore Community Land Trust;
- (6) Division of State Parks, DLNR -- \$7,000 for the acquisition of seven acres in North Kohala, Island of Hawaii;
- (7) The Trust for Public Land -- \$537,500 for the acquisition of 3,582 acres in Honouliuli, Island of Oahu, to be held by the State of Hawaii;
- (8) The Trust for Public Land -- \$1,250,000 for the acquisition of 17.05 acres near Lapakahi, Kohala, Island of Hawaii, to be held by the State of Hawaii.

Thank you for the opportunity to provide these recommendations. If we may be of further assistance, please feel free to contact us.

Sincerely,



COLLEEN HANABUSA, President
Senate
State of Hawaii



CALVIN K.Y. SAY, Speaker
House of Representatives
State of Hawaii